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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92058315
Party	Plaintiff State of Michigan
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Submission	Other Motions/Papers
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Date	07/23/2015
Attachments	P - MDOT's Response to Request for Telephone Conference 7-23-15.pdf(63315 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

State of Michigan	)	
	)	
Petitioner,	)	Reg. Nos.: 3992159
	)	3348635
	)	
v.	)	
	)	
M22, LLC	)	Proceeding: 92058315
	)	
Respondent.	)	
	)	
	)	

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**PETITIONER'S RESPONSE TO RESPONDENT'S  
REQUEST FOR TELEPHONE CONFERENCE**

Petitioner answers Respondent's request for a telephone conference as follows:

1. Admitted.
2. Admitted.
3. Petitioner agrees it was served with discovery by Respondent on February 9, 2015 which included a 30(b)(6) Deposition Notice identical to the one at issue here. Petitioner's counsel did contact Respondent's counsel objecting to the discovery, including the deposition notice which had been arbitrarily noticed for a date, time and location in Traverse City, Michigan. Petitioner could not file objections or take other action allowed by the TTAB's Rules regarding that discovery, including the 30(b)(6) Deposition Notice. Proceedings in this matter were stayed pending a decision on Petitioner's motion for judgment on the pleadings.

The fact Petitioner did not identify specific objections to the 30(b)(6) Deposition Notice when served in February 9, 2015 does not preclude or prevent the objections properly raised in its Motion for Protective Order—the overbroad scope of the subjects, records to be produced, number of deponents required, and the location when the deponents and their records are all located in Lansing, Michigan.

4. Admitted. Also see paragraph 3 above which is incorporated in further response.

5. Admitted. Petitioner further states, Respondent’s counsel was contacted by letter July 7, 2015 detailing the objections and requesting an extension to respond, but rather than conference at that time to attempt to resolve the issues, concurrence in the proposed relief was denied necessitating the Motions for Protective Order and to Extend Time to Respond to the discovery.

6. Petitioner has no objection to a telephone conference pursuant to TBMP 502.06 and 37 CFR § 2.120(i)(1) to discuss both Petitioner’s Motion for Protective Order and to Extend Time to Respond to discovery requests. However, Petitioner requests that a conference be scheduled for a mutually agreeable date after its Reply Brief in support of each motion is filed next week for two reasons. First, the examining attorney will then have all the pertinent facts and arguments. Second, Petitioner’s attorney handling these matters is out of the office until July 27, 2015 and intends to prepare and file a Reply Brief upon her return.

7. Petitioner denies that “time is of the essence” as described by Respondent. The deposition date of July 28, 2015 was *arbitrarily* picked by

Respondent without first verifying the availability of Petitioner's counsel or the witnesses required to address the broad scope of subjects identified for the deposition. And compliance with the July 28, 2015 date is made more difficult because additional time for travel to Traverse City, Michigan is required. All the likely witnesses are all located in Lansing, Michigan approximately 170 miles (more than two hours) from the deposition site.

It is not uncommon that arbitrarily noticed depositions like this one are rescheduled to mutually agreeable dates once all the witnesses are identified and availability verified. And, Respondent is not prejudiced by the rescheduling of this deposition date: (1) Respondent has Petitioner's disclosures, including the referenced documents; (2) Rescheduling the deposition will allow for completion of the other outstanding discovery responses which may reduce the number of topics and deponents for the 30(b)(6) deposition; (3) discovery does not close in this matter until November 25, 2015 leaving time to complete the written discovery responses, the 30(b)(6) deposition, and any follow-up or other discovery.

Petitioner agrees a telephone conference at a mutually agreeable date and time after July 27, 2015 would be useful in attempting to resolve these issues once all the relevant facts and arguments have been presented and its attorney is available. Petitioner therefore requests the conference be scheduled for a mutually agreeable date after Reply Briefs are filed next week and its attorney has returned to the office and is available.

Respectfully submitted,

By: /s/Toni L. Harris

Date: July 23, 2015

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**PROOF OF SERVICE**

I, Susan Lubitz, legal secretary to Assistant Attorney General Toni L. Harris, certify that on July 23, 2015, I served a true and correct copy of Petitioner's Response to Respondent's Request for Telephone Conference on Respondent's counsel of record by e-mail and mail with first-class postage fully prepaid thereon and causing same to be deposited in the United States mail service.

/s/ Susan Lubitz

Susan Lubitz